

# STATE OF NEW YORK

4585

2025-2026 Regular Sessions

## IN SENATE

February 7, 2025

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the insurance law, in relation to promoting efficient and effective oversight of continuing care retirement communities; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 4602 of the public health law, as added by chapter  
2 689 of the laws of 1989, the section heading and subdivisions 1 and 2 as  
3 amended by chapter 659 of the laws of 1997, the opening paragraph of  
4 subdivision 1 as amended by section 81 of part A of chapter 62 of the  
5 laws of 2011, the opening paragraph of subdivision 2 as amended by chap-  
6 ter 549 of the laws of 2014, subdivision 3 as amended by chapter 155 of  
7 the laws of 2012, is amended to read as follows:

8 § 4602. [~~Continuing care retirement community council~~] Commissioner;  
9 powers and duties. [~~1. The continuing care retirement community council~~  
10 ~~is hereby established, to consist of the following, or their designees:~~  
11 ~~the attorney general, the commissioner, the director of the office for~~  
12 ~~the aging, and eight public members appointed by the governor with the~~  
13 ~~advice and consent of the senate. Such public members shall be represen-~~  
14 ~~tative of the public, and have a demonstrated expertise or interest in~~  
15 ~~continuing care retirement communities, provided that no more than one~~  
16 ~~such member shall be a sponsor, owner, operator, manager, member of a~~  
17 ~~board of directors, or shareholder of a continuing care retirement~~  
18 ~~community. At least two public members shall be residents of a continu-~~  
19 ~~ing care retirement community. At least one of the public members shall~~  
20 ~~be a representative of an organization with demonstrated experience in~~  
21 ~~representing the interests of senior citizens. The public members of the~~  
22 ~~council shall have fixed terms of four years. The council shall be~~  
23 ~~chaired by the commissioner or his or her designee.~~

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD03871-03-5

~~Members of such council shall serve without compensation for their services as members of the council, except that each of them may be allowed the necessary and actual expenses which he shall incur in the performance of his duties under this article.~~

~~2. The council shall meet as often as may be deemed necessary to fulfill its responsibilities.~~ The [eouncil] commissioner shall have the following powers and duties:

a. to receive applications from potential operators of continuing care retirement communities and to distribute such applications for review to the participating agencies;

b. to develop uniform forms for applications for certificates of authority, to review the status of such applications, and to coordinate the review of such applications in order to minimize duplication or delay;

c. to provide information to entities wishing to establish continuing care retirement communities and to persons interested in becoming residents of such communities, to the extent appropriate, with concerns relating to the operation of such facilities;

d. to issue certificates of authority to approved applicants;

e. to approve or reject applications to obtain a certificate of authority for the establishment and operation of a continuing care retirement community. In reviewing applications, the [eouncil] commissioner shall consider the extent to which the applications reflect various sponsorships, organizational structures, geographic dispersion, and the public benefit. In determining the public benefit of a community requiring construction of a total nursing facility component greater than or equal to ninety beds, the [eouncil] commissioner shall obtain and consider the recommendation of the [state hospital review] public health and health planning council with regard to the effect of the construction of the community's nursing facility beds upon existing facilities in the same geographic area;

~~b.~~ f. to require the reporting of such facts and information as the [eouncil] commissioner may deem necessary to enforce the provisions of this article;

~~e.~~ g. to coordinate the oversight of operating communities and to assign review and regulatory responsibility for particular aspects of such communities to the appropriate agencies, consistent with their legal authority, to assure consistent state supervision without duplication of inspection or regulatory review;

~~d.~~ h. to make such recommendations to the governor and the legislature as may be necessary to encourage or further regulate the development of continuing care retirement communities;

~~e.~~ i. to establish and charge equitable and reasonable annual charges for operators, not to exceed fifty dollars per approved living unit, to subsidize, in part, expenditures incurred in reviewing applications for certificates of authority and in inspecting, regulating, supervising and auditing continuing care retirement communities;

~~f. to review reports from the participating agencies regarding the operations and financial management of approved communities, including any reports regarding the financial condition of any community that may be in need of close supervision and any reports of deficiencies in the provision of health or social services to residents of any community;~~

~~g.~~ j. to adopt rules and regulations and amendments thereto to effectuate the provisions of this article;

~~h.~~ k. to revoke, suspend, limit, or annul a certificate of authority under conditions set forth in section forty-six hundred fifteen of this

1 article, including when such action is taken at the specific request of  
2 any participating council agency. [~~When action has been taken by the~~  
3 ~~commissioner pursuant to subdivision seven of section forty-six hundred~~  
4 ~~three of this article, the council shall meet as soon as reasonably~~  
5 ~~possible to approve or disapprove the action of the commissioner and~~  
6 ~~shall take such further action as may be appropriate;~~

7 ~~i. to develop guidelines for applications for certificates of authori-~~  
8 ~~ty;~~

9 ~~j.]~~ l. to carry out any other responsibilities entrusted to the  
10 commissioner pursuant to this chapter that may be necessary with regard  
11 to the health care activities of continuing care retirement communities;

12 m. to make available to all prospective operators all pertinent regu-  
13 lations regarding health and insurance necessary to comply with this  
14 article;

15 n. to [make a final determination regarding an application] approve or  
16 reject applications for authorization by prospective continuing care  
17 retirement community applicants, entities that have filed an application  
18 for a certificate of authority and operators, to enter into cancellable  
19 priority reservation agreements [where the commissioner has proposed to  
20 reject such application] and to collect refundable priority reservation  
21 fees from prospective residents;

22 [~~k.]~~ o. to require the reporting of such facts and information as the  
23 [council] commissioner may deem necessary to determine whether charac-  
24 teristics of residential health care demonstration facilities such as  
25 comprehensive systems of residential and support services for the elder-  
26 ly may be successfully incorporated into existing or approved continuing  
27 care retirement communities;

28 [~~l.]~~ p. to review and approve or reject applications by continuing  
29 care retirement community operators to use entrance fees to assist the  
30 operator in financing the construction or purchase of a proposed contin-  
31 uing care retirement community in accordance with paragraph b of subdivi-  
32 sion six of section forty-six hundred ten of this article; and

33 [~~m.]~~ g. to review and approve or reject any proposed financing by  
34 industrial development agencies of continuing care retirement communi-  
35 ties pursuant to article eighteen-A of the general municipal law as  
36 authorized by section forty-six hundred four-a of this article.

37 [~~3. The council shall establish guidelines under which the commissioner~~  
38 ~~is authorized to approve or reject any proposed refinancing, if the~~  
39 ~~council has already approved an application pursuant to paragraph a of~~  
40 ~~subdivision two of this section.]~~

41 § 2. Section 4603 of the public health law is REPEALED and a new  
42 section 4603 is added to read as follows:

43 § 4603. Continuing care retirement community council; powers and  
44 duties. 1. The continuing care retirement community council is hereby  
45 established, to consist of the following, or their designees: the attor-  
46 ney general; the commissioner; the director of the office for the aging;  
47 and eight public members appointed by the governor with the advice and  
48 consent of the senate. Such public members shall be representative of  
49 the public, and have a demonstrated expertise or interest in continuing  
50 care retirement communities; provided that no more than one such member  
51 shall be a sponsor, owner, operator, manager, member of a board of  
52 directors, or shareholder of a continuing care retirement community. At  
53 least two public members shall be residents of a continuing care retire-  
54 ment community. At least one of the public members shall be a represen-  
55 tative of an organization with demonstrated experience in representing  
56 the interests of senior citizens. The public members of the council

1 shall have fixed terms of four years. The council shall be chaired by  
 2 the commissioner or the designee of such commissioner.

3 Members of such council shall serve without compensation for their  
 4 services as members of the council, except that each of them may be  
 5 allowed the necessary and actual expenses which such member shall incur  
 6 in the performance of their duties under this article.

7 2. The council shall meet as often as may be deemed necessary to  
 8 fulfill its responsibilities. The council shall have the following  
 9 powers and duties:

10 a. to assist the commissioner on policy matters related to the estab-  
 11 lishment and operation of continuing care retirement communities;

12 b. to assist the commissioner in the development of the state's over-  
 13 all policy regarding continuing care retirement communities and cause  
 14 studies and research to be conducted as it may deem advisable and neces-  
 15 sary; and

16 c. to make such recommendations to the governor and the legislature as  
 17 may be necessary to encourage or further regulate the development of  
 18 continuing care retirement communities.

19 § 3. Subdivision 4 of section 4604 of the public health law, as  
 20 amended by chapter 659 of the laws of 1997, subparagraphs (i), (ii) and  
 21 (iii) of paragraph a as further amended by section 104 of part A of  
 22 chapter 62 of the laws of 2011, paragraphs b and d as amended by chapter  
 23 549 of the laws of 2014, and paragraph c as amended by chapter 7 of the  
 24 laws of 2015, is amended to read as follows:

25 4. No certificate of authority shall be issued unless the commissioner  
 26 has approved an application meeting the requirements of this section and  
 27 all other requirements established by law [~~has been approved by~~] includ-  
 28 ing:

29 a. [~~(i)~~] the [~~superintendent of financial services as to the~~] actuari-  
 30 al principles involved, the financial feasibility of the facility, the  
 31 form and content of the proposed contracts to be entered into with resi-  
 32 dents and insurance contracts between an operator and an insurer requir-  
 33 ing the insurer to assume, wholly or in part, the cost of medical or  
 34 health related services to be provided to a resident, provided that the  
 35 review may be conducted by the commissioner or the designee of such  
 36 commissioner, including any necessary independent actuarial review;

37 [~~(ii) the superintendent of financial services as to~~] b. the rates and  
 38 rating methodology, if any, to be used by the operator to determine any  
 39 entrance fee, monthly care fee and/or any separate charges for the hous-  
 40 ing component of the continuing care contract including but not limited  
 41 to a cooperative or condominium fee charged to the resident as proposed  
 42 in said operator's application for certificate of authority. Subsequent  
 43 increases in any entrance or monthly care fee in excess of fees calcu-  
 44 lated pursuant to the approved rating methodology shall require approval  
 45 of the [~~superintendent~~] commissioner. The term "rating methodology" as  
 46 used herein shall incorporate a combination of variables including but  
 47 not limited to a pricing structure for comparable services, projected  
 48 operating and health care costs and the applicable inflationary impact  
 49 thereon, projected income and occupancy rates and the refundability  
 50 component of the continuing care retirement contract[~~.~~

51 [~~(iii) the superintendent of financial services as to~~];

52 c. any monthly care fee charged to a resident which may be increased  
 53 or decreased subject to approval by the [~~superintendent of financial~~  
 54 ~~services~~] commissioner, provided, that monthly care fees may be  
 55 increased or decreased without specific approval as long as such  
 56 increase or decrease does not exceed a relevant cost index or indices

1 which reflect all components of continuing care including the costs  
2 associated with provision of health care as determined and promulgated  
3 at least annually by the [~~superintendent~~] commissioner or the designee  
4 of such commissioner, including any necessary independent actuarial  
5 review, and provided further that the [~~superintendent~~] commissioner is  
6 notified of any such increase or decrease prior to its taking effect[~~.~~

7 ~~(iv) An~~];

8 d. the requirement that an individual resident's monthly care fee  
9 shall not be modified because of the increased need for services of that  
10 resident;

11 [~~b. the commissioner as to those~~] e. aspects of the application relat-  
12 ing to adult care facility beds, if any;

13 [~~e.~~] f. review by the public health and health planning council as to  
14 the establishment of a skilled nursing facility by the applicant and as  
15 to such other facilities and services as may require the public health  
16 and health planning council's approval of the application; provided,  
17 however, that the recommendations of the health systems agency having  
18 geographical jurisdiction of the area where the continuing care retire-  
19 ment community is located shall not be required with respect to the  
20 establishment of an on-site or affiliated residential health care facil-  
21 ity to serve residents as part of the continuing care retirement commu-  
22 nity, for up to the total number of residential health care facility  
23 beds provided for in subdivision five of this section in communities  
24 statewide;

25 [~~d. the commissioner under section twenty-eight hundred two of this~~  
26 ~~chapter,~~] provided, [~~however~~] further, that, the recommendations of the  
27 public health and health planning council and the health systems agency  
28 having geographical jurisdiction of the area where the continuing care  
29 retirement community is located shall not be required with respect to  
30 the construction of an on-site or affiliated residential health care  
31 facility to serve residents as part of the continuing care retirement  
32 community, for up to the total number of residential health care facili-  
33 ty beds provided for in subdivision five of this section in communities  
34 statewide; and

35 [~~e. the~~] g. upon consultation with the attorney general, as to those  
36 aspects of the application relating to a cooperative, condominium or  
37 other equity arrangement for the independent living unit, if any.

38 § 4. The opening paragraph of subdivision 6 of section 4604 of the  
39 public health law, as amended by chapter 659 of the laws of 1997, is  
40 amended to read as follows:

41 If the [~~approveals~~] applicant has satisfied the criteria required by  
42 subdivision four of this section [~~have been obtained~~], the [~~council~~]  
43 commissioner shall[~~, by majority vote,~~] either approve or reject the  
44 application [~~within sixty days of the date on which the last such~~  
45 ~~approval has been obtained~~]. In order to approve the application, the  
46 [~~council~~] commissioner shall have determined that:

47 § 5. Subdivisions 7 and 9 of section 4604 of the public health law,  
48 subdivision 7 as amended by chapter 659 of the laws of 1997 and subdivi-  
49 sion 9 as added by chapter 689 of the laws of 1989, are amended to read  
50 as follows:

51 7. Any change in the legal entity operating the continuing care  
52 retirement community, or in a controlling person of the community shall  
53 require approval in the same manner as an original application;  
54 provided, however, that the [~~council~~] commissioner may waive any  
55 requirement to provide information that is not relevant to such change

1 and provided, further, that the continued public need for the community  
2 shall be presumed.

3 9. [~~If the council approves the application, the~~] The commissioner  
4 shall issue the certificate of authority to the applicant upon approval  
5 of the application.

6 § 6. Section 4604-a of the public health law, as amended by chapter  
7 659 of the laws of 1997, paragraph g of subdivision 2 as amended by  
8 chapter 549 of the laws of 2014, is amended to read as follows:

9 § 4604-a. [~~Council~~] Commissioner approval required for industrial  
10 development agency financing in connection with continuing care retire-  
11 ment communities. 1. No person seeking financing in connection with a  
12 continuing care retirement community through an industrial development  
13 agency shall undertake such financing without the prior approval of the  
14 [~~council~~] commissioner. Upon approving a proposed financing pursuant to  
15 this section, the [~~council~~] commissioner shall issue a certificate of  
16 authorization to the applicant.

17 2. Prior to approving such financing, the [~~council~~] commissioner shall  
18 find that:

19 a. The operator has (i) executed contracts for at least seventy  
20 percent of all living units and has on deposit at least ten percent of  
21 the entrance fees or purchase price for such units; or (ii) executed  
22 contracts for at least sixty percent of all living units and has on  
23 deposit at least twenty-five percent of the entrance fees or purchase  
24 price for such units.

25 b. The operator has demonstrated capability to comply fully with the  
26 requirements for a certificate of authority and has obtained a contin-  
27 gent certificate of authority pursuant to section forty-six hundred four  
28 of this article and the operator has agreed to meet the requirements of  
29 article eighteen-A of the general municipal law.

30 c. The applicant is a not-for-profit corporation as defined in section  
31 one hundred two of the not-for-profit corporation law that is (i) eligi-  
32 ble for tax-exempt financing under this section and (ii) is exempt from  
33 taxation pursuant to section 501(c)(3) of the federal internal revenue  
34 code, and either has (i) an equity position in the community equivalent  
35 to no less than fifteen percent of the amount to be financed in the  
36 aggregate; or (ii) covenants (A) to meet a ratio of cash and investments  
37 to outstanding debt (reserve ratio) of no less than twenty-five percent  
38 commencing at the end of the first quarter after twenty-four months from  
39 the receipt of a certificate of occupancy for the facility, and (B) to  
40 maintain that reserve ratio, as tested quarterly based upon the facili-  
41 ty's interim financial statements and annually based upon audited finan-  
42 cial statements, until debt reduction equal to twenty-five percent of  
43 total indebtedness is accomplished; and (c) to reduce total debt by  
44 twenty-five percent of the total indebtedness at the time the certif-  
45 icate of occupancy is received by no later than five years after the  
46 receipt of the certificate of occupancy.

47 d. The operator has submitted in connection with the proposed financ-  
48 ing a financial feasibility study, including a financial forecast and  
49 market study prepared by an independent firm nationally recognized for  
50 continuing care retirement community feasibility studies, demonstrating  
51 to the satisfaction of the [~~council~~] commissioner the financial sound-  
52 ness of the financing. In addition, the operator has submitted an analy-  
53 sis of economic costs and benefits, including job creation and  
54 retention, the estimated value of tax exemptions provided, the project's  
55 impact on local businesses and the availability and comparative cost of

1 alternative financing sources. Such analysis shall be prepared by an  
2 independent entity.

3 e. The operator will establish and maintain a fully funded debt  
4 service reserve equal to the sum of maximum annual debt service (inter-  
5 est plus annual scheduled principal payments, not including balloon  
6 maturities, if any) on bonds authorized thereby having a maturity of ten  
7 years or less, plus the maximum annual debt service on bonds authorized  
8 thereby having a maturity of greater than ten years, provided, however,  
9 that in the case of tax-exempt bond issues, such debt service reserve  
10 shall not exceed the maximum amount permitted by federal tax law.

11 f. The operator will provide for such remedies or limitations of reme-  
12 dies of bondholders as may be required by or consistent with the  
13 provisions of this article and any regulations in existence at the time  
14 of the issuance promulgated thereunder.

15 g. Unless all residents or continuing care at home contract holders  
16 have life care contracts, the operator has adequately made the assur-  
17 ances required by subdivision two of section forty-six hundred twenty-  
18 four of this article and has agreed to fund the liability in the event  
19 that such resident's or contract holder's assets are insufficient to pay  
20 for nursing facility services for a one year period.

21 3. In addition, an operator which is subject to the provisions of this  
22 section shall:

23 a. provide the [~~council or its designee~~] commissioner with notice of  
24 any monetary default or covenant default in connection with such financ-  
25 ing and shall further notify the [~~council or its designee~~] commissioner  
26 of any withdrawal from the debt service reserve fund established in  
27 connection with such financing;

28 b. respond in writing to the operational recommendations of the [~~coun-  
29 cil or its designee~~] commissioner with respect to protecting the inter-  
30 ests of continuing care retirement community residents in the event of  
31 any monetary default or covenant default provided for in connection with  
32 such financing;

33 c. provide adequate security for the repayment of the bonds issued,  
34 including the granting of liens on real and personal property and the  
35 pledge of project revenues; the maintenance of minimum debt service  
36 coverage and other financial ratios as shall be required in regulations  
37 in existence at the time of issuance by the [~~council~~] commissioner; and  
38 restrictions on other debt and expenditures; and

39 d. undertake to maintain the financial feasibility of the facility,  
40 including the retention of an independent consultant to recommend and  
41 help implement remedial action.

42 4. The [~~council~~] commissioner may request, and shall receive, the  
43 technical assistance of any state agency or state public authority in  
44 performing its functions under this article.

45 § 7. Section 4605-a of the public health law, as added by chapter 7 of  
46 the laws of 2015, is amended to read as follows:

47 § 4605-a. Certificate of authority; authority to offer continuing care  
48 at home contracts. A continuing care retirement community may offer  
49 continuing care at home contracts upon approval by the [~~council~~] commis-  
50 sioner to amend the continuing care retirement community's certificate  
51 of authority. In order to qualify for an amendment to its certificate of  
52 authority, the continuing care retirement community shall submit to the  
53 commissioner the following:

54 1. a business plan to the commissioner [~~and superintendent~~] that  
55 includes the following:

1 (a) a description of the continuing care at home services that will be  
2 provided, the market that will be served by the continuing care at home  
3 contracts, and the fees to be charged to prospective continuing care at  
4 home contract holders;

5 (b) a copy of the proposed continuing care at home contract; and

6 (c) an actuarial study prepared by an independent actuary in accord-  
7 ance with standards adopted by the American Academy of Actuaries demon-  
8 strating the impact that the continuing care at home contracts will have  
9 on the overall operations of the continuing care retirement community  
10 and further demonstrating that the addition of continuing care at home  
11 contracts will not jeopardize the financial solvency of the continuing  
12 care retirement community.

13 2. a market feasibility study demonstrating to the commissioner [~~and~~  
14 ~~superintendent~~] sufficient consumer interest in continuing care at home  
15 contracts and further demonstrating that the addition of continuing care  
16 at home contracts will not have an adverse impact on the provision of  
17 services to continuing care retirement contract holders.

18 3. materials that meet all requirements established by the [~~New York~~  
19 ~~state~~] department [~~of financial services~~].

20 4. [~~A~~] a copy of the notification sent to continuing care retirement  
21 contract holders describing the anticipated impact of the addition of  
22 continuing care at home contracts on continuing care retirement communi-  
23 ty resources and proof that such notification has been distributed to  
24 all continuing care retirement contract holders.

25 § 8. Section 4605-b of the public health law, as added by chapter 7 of  
26 the laws of 2015, is amended to read as follows:

27 § 4605-b. Certificate of authority; limitation on continuing care at  
28 home contracts. The number of continuing care at home contracts  
29 approved on a certificate of authority shall be limited to:

30 1. The number of approved living units on the continuing care retire-  
31 ment community's premises that are intended for ILU residents, except  
32 that the [~~council~~] ~~commissioner~~ may approve additional contracts upon a  
33 submission [~~to the commissioner~~] by an operator consistent with the  
34 provisions set forth in section forty-six hundred five-a of this arti-  
35 cle;

36 2. The demonstrated number of continuing care at home contract holders  
37 that can be supported in the existing or approved future capacity of the  
38 adult care facility and skilled nursing facility consistent with the  
39 provisions set forth in section forty-six hundred five-a of this arti-  
40 cle; and

41 3. Conditions set forth by the [~~New York state~~] department [~~of finan-~~  
42 ~~cial services~~], based upon the [~~superintendent~~] ~~commissioner's~~ assess-  
43 ment of the following:

44 (a) the overall financial impact on the community; and

45 (b) the submitted materials set forth in section forty-six hundred  
46 five-a of this article.

47 § 9. Section 4607 of the public health law, as added by chapter 689 of  
48 the laws of 1989, paragraph d of subdivision 2 as amended by chapter 659  
49 of the laws of 1997, is amended to read as follows:

50 § 4607. Annual statement. 1. Within four months of close of the oper-  
51 ator's fiscal year, unless an extension of time to file has been grant-  
52 ed, the operator shall file an annual statement with the commissioner  
53 [~~and superintendent~~] showing the condition as of the last day of the  
54 preceding calendar or fiscal year. If the commissioner [~~and superinten-~~  
55 ~~dent do~~] ~~does~~ not receive the annual statement within four months of the

1 end of the operator's fiscal year or have not granted an extension of  
2 time to file, the [~~council~~] commissioner may charge a late fee.

3 2. The annual statement shall be in such form as the [~~council~~] commis-  
4 sioner prescribes and shall contain at least the following:

5 a. Any change in status with respect to the information required to be  
6 submitted pursuant to section forty-six hundred four of this article;

7 b. Financial statements audited by an independent certified public  
8 accountant, which shall contain, for two or more periods if the communi-  
9 ty has been in existence that long, the following:

10 (i) an accountant's opinion and, in accordance with generally accepted  
11 accounting principles:

12 (A) a balance sheet,

13 (B) a statement of income and expenses,

14 (C) a statement of equity or fund balances,

15 (D) a statement of changes in financial position,

16 (ii) notes to the financial statements considered customary or neces-  
17 sary to ensure full disclosure of the financial statements, financial  
18 condition, and operation;

19 c. A detailed listing of the assets maintained for the reserves;

20 d. A copy of the most recent actuarial review of the community,  
21 including such information as may be required by the [~~superintendent~~]  
22 commissioner including an opinion of a qualified consulting actuary, as  
23 to the current and projected soundness of the community, provided howev-  
24 er that a new actuarial review must be submitted triennially; and

25 e. Such other reasonable financial and other information as the [~~coun-~~  
26 ~~eil~~] commissioner may require with respect to the operator or the commu-  
27 nity, or its directors, controlling persons, trustees, members, branch-  
28 es, subsidiaries or affiliates to determine the financial status of the  
29 community and the management capabilities of the operator.

30 3. Sixty days before commencement of each calendar or fiscal year or  
31 official opening date, whichever is applicable, each operator shall file  
32 with the commissioner [~~and superintendent~~] a computation of the annual  
33 long-term debt service and a projected annual revenue and expense summa-  
34 ry for the next ten years.

35 § 10. Section 4658 of the public health law, as added by chapter 519  
36 of the laws of 2004, is amended to read as follows:

37 § 4658. Annual statement. 1. Within four months of close of an opera-  
38 tor's fiscal year, unless an extension of time to file has been granted,  
39 the operator shall file an annual statement with the commissioner show-  
40 ing the condition as of the last day of the preceding calendar or fiscal  
41 year. If the commissioner does not receive the annual statement within  
42 four months of the end of the operator's fiscal year or has not granted  
43 an extension of time to file, the council may charge a late fee.

44 2. The annual statement shall be in such form as the [~~council~~] commis-  
45 sioner prescribes and shall contain at least the following:

46 a. Any change in status with respect to the information required to be  
47 submitted pursuant to section forty-six hundred fifty-seven of this  
48 article;

49 b. Financial statements audited by an independent certified public  
50 accountant, which shall contain, for two or more periods if the communi-  
51 ty has been in existence that long, the following:

52 (i) notes to the financial statements considered customary or neces-  
53 sary to ensure full disclosure of the financial statements, financial  
54 condition, and operation; and

55 (ii) an accountant's opinion and, in accordance with generally  
56 accepted accounting principles: (A) a balance sheet, (B) a statement of

1 income and expenses, (C) a statement of equity or fund balances, and (D)  
2 a statement of changes in financial position;

3 c. A detailed listing of the assets maintained for the reserves; and

4 d. Such other reasonable financial and other information as the [~~coun-~~  
5 ~~oil~~] commissioner may require with respect to the operator or the commu-  
6 nity, or its directors, controlling persons, trustees, members, branch-  
7 es, subsidiaries or affiliates to determine the financial status of the  
8 community and the management capabilities of the operator.

9 3. Sixty days before commencement of each calendar or fiscal year or  
10 official opening date, whichever is applicable, each operator shall file  
11 with the commissioner a computation of the annual long-term debt service  
12 and a projected annual revenue and expense summary for the next ten  
13 years.

14 § 11. Subdivision 16 of section 4608 of the public health law, as  
15 amended by chapter 7 of the laws of 2015, is amended to read as follows:

16 16. A statement that any amendment to the contract and any change in  
17 fees or charges, other than those within the guidelines of an approved  
18 rating system, must be approved by the [~~superintendent of financial~~  
19 ~~services~~] commissioner;

20 § 12. Subdivisions 1 and 2 of section 4614 of the public health law,  
21 as amended by chapter 7 of the laws of 2015, are amended to read as  
22 follows:

23 1. The commissioner, or designee[~~, and the superintendent, or desig-~~  
24 ~~nee,~~] may at any time, and shall at least once every three years, visit  
25 each community and examine the business of any applicant for a certifi-  
26 cate of authority and any operator engaged in the execution of continu-  
27 ing care retirement contracts or continuing care at home contracts or  
28 engaged in the performance of obligations under such contracts. Routine  
29 examinations may be conducted by having documents designated by and  
30 submitted to such [~~commissioners or superintendent~~] commissioner, which  
31 shall include financial documents and records conforming to commonly  
32 accepted accounting principles and practices. The final written report  
33 of each such examination conducted by such [~~commissioners or superinten-~~  
34 ~~dent~~] commissioner shall be filed with the commissioner and, when so  
35 filed, shall constitute a public record. A copy of each report shall be  
36 provided to members of the continuing care retirement community council.  
37 Any operator being examined shall, upon request, give reasonable and  
38 timely access to all of its records. The representative or examiner  
39 designated by the [~~commissioners or superintendent, respectively,~~  
40 commissioner] may, at any time, examine the records and affairs and  
41 inspect the community's facilities, whether in connection with a formal  
42 examination or not.

43 2. Any duly authorized officer, employee, or agent of the [~~health~~  
44 ~~department,~~ ~~or department of financial services~~] may, upon presentation  
45 of proper identification, have access to, and inspect, any records main-  
46 tained by the community relevant to the [~~respective~~] agency's regulatory  
47 authority, with or without advance notice, to secure compliance with, or  
48 to prevent a violation of, any provision of this article.

49 § 13. Section 4615 of the public health law, as added by chapter 689  
50 of the laws of 1989, paragraph j of subdivision 1 as further amended by  
51 section 104 of part A of chapter 62 of the laws of 2011, paragraph k of  
52 subdivision 1 as amended by chapter 7 of the laws of 2015 and subdivi-  
53 sion 3 as amended by chapter 659 of the laws of 1997, is amended to read  
54 as follows:

1 § 4615. Revocation, suspension or annulment of certificate of authori-  
2 ty. 1. The [~~council~~] commissioner may revoke, suspend, limit or annul  
3 the certificate of authority of an operator upon proof that:

4 a. The operator failed to continue to meet the requirements for the  
5 authority originally granted;

6 b. The operator lacked one or more of the qualifications for the  
7 certificate of authority as specified by this article;

8 c. The operator made a material misstatement, misrepresentation, or  
9 committed fraud in obtaining the certificate of authority, or in  
10 attempting to obtain the same;

11 d. The operator lacked fitness or was untrustworthy;

12 e. The operator engaged in fraudulent or dishonest practices of  
13 management in the conduct of business under the certificate of authori-  
14 ty;

15 f. The operator converted or withheld funds;

16 g. The operator failed to comply with, or violated, any proper order,  
17 rule or regulation of the council or violated any provision of this  
18 article;

19 h. The unsound business practices of the operator renders its further  
20 transactions in this state hazardous or injurious to the public;

21 i. The operator has refused to be examined or to produce its accounts,  
22 records, and files for examination, or its officers, employees, or  
23 controlling persons have refused to give information with respect to the  
24 affairs of the community or to perform any other legal obligation as to  
25 such examination;

26 j. The [~~superintendent of financial services~~] commissioner has made a  
27 determination that the operator is insolvent within the meaning of  
28 section one thousand three hundred nine of the insurance law; or

29 k. The commissioner has found violations of applicable statutes, rules  
30 or regulations which threaten to affect directly the health, safety, or  
31 welfare of a resident.

32 2. No certificate of authority shall be revoked, suspended, limited or  
33 annulled without a hearing, except that a certificate of authority may  
34 be temporarily suspended or limited prior to a hearing for a period not  
35 in excess of sixty days upon written notice to the operator following a  
36 finding by the commissioner that the public health or safety is in immi-  
37 nent danger or there exists any condition or practice or a continuing  
38 pattern of conditions or practices that pose an imminent danger to the  
39 health or safety of any resident. Any delay in the hearing process occa-  
40 sioned by the operator shall toll the running of said suspension or  
41 limitation and shall not abridge the full time provided in this subdivi-  
42 sion.

43 3. Any state agency which seeks to revoke, suspend, limit or annul the  
44 certificate of authority or any other license or certificate required to  
45 be obtained by an operator of a continuing care retirement community  
46 pursuant to law, shall request the [~~council~~] commissioner to commence a  
47 hearing pursuant to this section.

48 4. The [~~council~~] commissioner shall fix a time and place for the hear-  
49 ing. The commissioner shall cause to be served in person or mailed by  
50 registered or certified mail to the operator at least ten days before  
51 the date fixed for the hearing a copy of the charges, together with the  
52 notice of the time and place of the hearing. The operator shall file  
53 with the commissioner not less than three days prior to the hearing a  
54 written answer to the charges. The agency which initiated the proceeding  
55 shall be responsible for providing evidence in support of the charges to

1 the commissioner in order to prepare a statement of charges and shall  
2 provide evidence in support of the charges at the hearing.

3 5. All orders hereunder shall be subject to review as provided in  
4 article seventy-eight of the civil practice law and rules. Application  
5 for such review must be made within sixty days after service in person  
6 or by registered or certified mail of a copy of the order upon the oper-  
7 ator.

8 § 14. Section 4616 of the public health law, as added by chapter 689  
9 of the laws of 1989, the opening paragraph as amended by chapter 659 of  
10 the laws of 1997, is amended to read as follows:

11 § 4616. Appointment of a caretaker. Upon a determination by the [~~coun-  
12 cil~~] commissioner that there exists operational deficiencies in a  
13 continuing care retirement community that show:

14 1. a condition or conditions in substantial violation of the standards  
15 for health, safety or patient care established under federal or state  
16 law or regulations; or

17 2. [~~or~~] that there exists in the facility a pattern or practice of  
18 habitual violation of the standards of health, safety or patient care  
19 established under federal or state law or regulations, the [~~council~~]  
20 commissioner shall take the actions prescribed by section forty-six  
21 hundred fifteen of this article, and, where the [~~council~~] commissioner  
22 deems it to be in the public interest, the [~~council may request that the  
23 commissioner, and upon request of the council the~~] commissioner shall[~~7~~]  
24 petition a court of competent jurisdiction to appoint a caretaker as  
25 defined in section twenty-eight hundred one of this chapter. The peti-  
26 tion, the proceedings, and the procedures for appointment of a caretaker  
27 shall be governed by the provisions of section forty-six hundred seven-  
28 teen of this article, and the powers, duties and rights of a caretaker  
29 appointed pursuant to such section shall be the same as those authorized  
30 by subdivision four of such section.

31 § 15. Subdivisions 1, 2 and 8 of section 4617 of the public health  
32 law, subdivision 1 as amended by chapter 659 of the laws of 1997, and  
33 subdivisions 2 and 8 as added by chapter 689 of the laws of 1989, are  
34 amended to read as follows:

35 1. The [~~council~~] commissioner may, [~~if it determines~~] upon a determi-  
36 nation that serious operational deficiencies exist or serious financial  
37 problems exist and such action is desirable, enter into an agreement  
38 with the operator or owners of a continuing care retirement community  
39 with respect to the appointment of a receiver to take charge of the  
40 community under conditions as found acceptable by both parties. Receiv-  
41 ership commenced in accordance with the provisions of this subdivision  
42 shall terminate at such time as may be provided in the receivership  
43 agreement, or at such time as either party notifies the other in writing  
44 that it wishes to terminate such receivership.

45 2. [~~Upon request of the council, the~~] The commissioner shall, at the  
46 time of revocation, suspension or temporary suspension of a certificate  
47 of authority, apply to the supreme court where the community is situated  
48 for an order directing the owner of the land and/or structure on or in  
49 which the community is located, to show cause why a receiver should not  
50 be appointed to take charge of the community. In those cases where the  
51 certificate of authority has been revoked, suspended or temporarily  
52 suspended, the supreme court shall appoint a receiver that, where  
53 reasonably possible, is a legal entity that holds a valid certificate of  
54 authority. Such application shall contain proof by affidavit that the  
55 facility has had its certificate of authority revoked, suspended, or  
56 temporarily suspended. Such order to show cause shall be returnable not

1 less than five days after service is completed and shall provide for  
2 personal service of a copy thereof and the papers on which it is based,  
3 on the owner or owners of the land and/or structures on or in which the  
4 community is located. If any such owner and manager cannot with due  
5 diligence be served personally within the county where the property is  
6 located and within the time fixed in such order, then service may be  
7 made on such person by posting a copy thereof in a conspicuous place  
8 within the community in question, and by sending a copy thereof by  
9 registered mail, return receipt requested, to such owner at the last  
10 address registered by [~~him~~] such owner with the department or in the  
11 absence of such registration to the address set forth in the last  
12 recorded deed with respect to the facility. Service shall be deemed  
13 complete on filing proof of service thereof in the office of the county  
14 clerk, or the clerk of the city of New York, as the case may be.

15 8. Any other provision of this article notwithstanding, the [~~council~~]  
16 commissioner may, if [~~it~~] such commissioner deems appropriate, grant to  
17 any community operating or scheduled to operate under a receivership  
18 authorized by this section a certificate of authority, the duration of  
19 which shall be limited to the duration of the receivership.

20 § 16. Section 4668 of the public health law, as added by chapter 519  
21 of the laws of 2004, is amended to read as follows:

22 § 4668. Revocation, suspension or annulment of certificate of authori-  
23 ty. 1. The [~~council~~] commissioner may revoke, suspend, limit or annul  
24 the certificate of authority of an operator upon proof that:

25 a. The operator failed to continue to meet the requirements for the  
26 authority originally granted;

27 b. The operator lacked one or more of the qualifications for the  
28 certificate of authority as specified by this article;

29 c. The operator made a material misstatement, misrepresentation, or  
30 committed fraud in obtaining the certificate of authority, or in  
31 attempting to obtain the same;

32 d. The operator lacked fitness or was untrustworthy;

33 e. The operator engaged in fraudulent or dishonest practices of  
34 management in the conduct of business under the certificate of authori-  
35 ty;

36 f. The operator converted or withheld funds;

37 g. The operator failed to comply with, or violated, any proper order,  
38 rule or regulation of the council or violated any provision of this  
39 article;

40 h. The unsound business practices of the operator renders its further  
41 transactions in this state hazardous or injurious to the public;

42 i. The operator has refused to be examined or to produce its accounts,  
43 records and files for examination, or its officers, employees or  
44 controlling persons have refused to give information with respect to the  
45 affairs of the community or to perform any other legal obligation as to  
46 such examination; or

47 j. The commissioner has found violations of applicable statutes, rules  
48 or regulations which threaten to affect directly the health, safety, or  
49 welfare of a resident of a fee-for-service continuing care retirement  
50 community.

51 2. No certificate of authority shall be revoked, suspended, limited or  
52 annulled without a hearing, except that a certificate of authority may  
53 be temporarily suspended or limited prior to a hearing for a period not  
54 in excess of sixty days upon written notice to the operator following a  
55 finding by the commissioner that public health or safety is in imminent  
56 danger or there exists any condition or practice or a continuing pattern

1 of conditions or practices that pose an imminent danger to the health or  
2 safety of any resident. Any delay in the hearing process occasioned by  
3 the operator shall toll the running of said suspension or limitation and  
4 shall not abridge the full time provided in this subdivision.

5 3. Any state agency which seeks to revoke, suspend, limit or annul the  
6 certificate of authority or any other license or certificate required to  
7 be obtained by an operator of a community pursuant to law, shall request  
8 the [~~eouncil~~] commissioner to commence a hearing pursuant to this  
9 section.

10 4. The [~~eouncil~~] commissioner shall fix a time and place for the hear-  
11 ing. The commissioner shall cause to be served in person or mailed by  
12 registered or certified mail to the operator at least ten days before  
13 the date fixed for the hearing a copy of the charges, together with the  
14 notice of the time and place of the hearing. The operator shall file  
15 with the commissioner not less than three days prior to the hearing a  
16 written answer to the charges. The agency which initiated the proceeding  
17 shall be responsible for providing evidence in support of the charges to  
18 the commissioner in order to prepare a statement of charges and shall  
19 provide evidence in support of the charges at the hearing.

20 5. All orders pursuant to this section shall be subject to review as  
21 provided in article seventy-eight of the civil practice law and rules.  
22 Application for such review shall be made within sixty days after  
23 service in person or by registered or certified mail of a copy of the  
24 order upon the operator.

25 § 17. Section 4669 of the public health law, as added by chapter 519  
26 of the laws of 2004, is amended to read as follows:

27 § 4669. Appointment of a caretaker. Upon a determination by the  
28 [~~eouncil~~] commissioner that there exists operational deficiencies in a  
29 fee-for-service continuing care retirement community that show:

30 1. there exists in the facility a pattern or practice of habitual  
31 violation of the standards of health, safety or patient care established  
32 under federal or state law or regulations, the [~~eouncil~~] commissioner  
33 shall take the actions prescribed by section forty-six hundred sixty-  
34 eight of this article, and, where the [~~eouncil~~] commissioner deems it to  
35 be in the public interest, the [~~council may request the commissioner,~~  
36 ~~and upon request of the council the~~] commissioner shall[~~7~~] petition a  
37 court of competent jurisdiction to appoint a caretaker as defined in  
38 section twenty-eight hundred one of this chapter. The petition, the  
39 proceedings, and the procedures for appointment of a caretaker shall be  
40 governed by the provisions of section forty-six hundred seventy of this  
41 article, and the power, duties and rights of a caretaker appointed  
42 pursuant to such section shall be the same as those authorized by subdi-  
43 vision four of such section; or

44 2. a condition or conditions in substantial violation of the standards  
45 for health, safety or patient care established under federal or state  
46 law or regulations.

47 § 18. Subdivisions 1, 2 and 8 of section 4670 of the public health  
48 law, as added by chapter 519 of the laws of 2004, are amended to read as  
49 follows:

50 1. The [~~eouncil~~] commissioner may, [~~if it determines~~] upon a determi-  
51 nation that serious operational deficiencies exist or serious financial  
52 problems exist and such action is desirable, enter into an agreement  
53 with the operator or owners of a fee-for-service continuing care retire-  
54 ment community with respect to the appointment of a receiver to take  
55 charge of the community under conditions as found acceptable by both  
56 parties. Receivership commenced in accordance with the provisions of

1 this subdivision shall terminate at such time as may be provided in the  
2 receivership agreement, or at such time as either party notifies the  
3 other in writing that it wishes to terminate such receivership.

4 2. [~~Upon request of the council, the~~] The commissioner shall, at the  
5 time of revocation, suspension or temporary suspension of a certificate  
6 of authority, apply to the supreme court where the community is situated  
7 for an order directing the owner of the land and/or structure on or in  
8 which the community is located, to show cause why a receiver should not  
9 be appointed to take charge of the community. In those cases where the  
10 certificate of authority has been revoked, suspended or temporarily  
11 suspended, the supreme court shall appoint a receiver that, where  
12 reasonably possible, is a legal entity that holds a valid certificate of  
13 authority. Such application shall contain proof by affidavit that the  
14 facility has had its certificate of authority revoked, suspended or  
15 temporarily suspended. Such order to show cause shall be returnable not  
16 less than five days after service is completed and shall provide for  
17 personal service of a copy thereof and the papers on which it is based,  
18 on the owner or owners of the land and/or structures on or in which the  
19 community is located. If any such owner and manager cannot with due  
20 diligence be served personally within the county where the property is  
21 located and within the time fixed in such order, then service may be  
22 made on such person by posting a copy thereof in a conspicuous place  
23 within the community in question, and by sending a copy thereof by  
24 registered mail, return receipt requested, to such owner at the last  
25 address registered by [~~him or her~~] such owner with the department or in  
26 the absence of such registration to the address set forth in the last  
27 recorded deed with respect to the facility. Service shall be deemed  
28 complete on filing proof of service thereof in the office of the county  
29 clerk, or the clerk of the city of New York, as the case may be.

30 8. Any other provision of this article notwithstanding, the [~~council~~]  
31 commissioner may, if [~~it~~] such commissioner deems appropriate, grant to  
32 any community operating or scheduled to operate under a receivership  
33 authorized by this section a certificate of authority, the duration of  
34 which shall be limited to the duration of the receivership.

35 § 19. Paragraph g of subdivision 4 of section 4621 of the public  
36 health law, as added by chapter 406 of the laws of 1991, is amended to  
37 read as follows:

38 g. If the funds in an escrow account under this section, and any  
39 interest thereon, are not released to the applicant within such time as  
40 provided by rules and regulations adopted by the [~~council~~] commissioner,  
41 then such funds shall be returned by the escrow agent to the person who  
42 had made the payments or the person's legal representative.

43 § 20. Subdivision 1 of section 4623 of the public health law, as  
44 amended by chapter 659 of the laws of 1997, is amended to read as  
45 follows:

46 1. The [~~council~~] commissioner may approve an application for a certifi-  
47 cate of authority and [~~the commissioner~~] may issue a certificate of  
48 authority for the establishment and operation of a continuing care  
49 retirement community under an arrangement which otherwise complies with  
50 the requirements of this article except that the costs of nursing facil-  
51 ity or home health care services are paid for in whole or in part by (a)  
52 long term care insurance obtained and paid for by the resident or by  
53 medical assistance payments in accordance with the partnership for long  
54 term care program pursuant to section three hundred sixty-seven-f of the  
55 social services law and section three thousand two hundred twenty-nine  
56 of the insurance law or (b) other group or individual long term care

1 insurance approved by the superintendent and the council in connection  
2 with the application. The council, in consultation with the superinten-  
3 dent, shall provide for adequate disclosure to residents of their  
4 options, rights and obligations under such an arrangement, and shall  
5 establish standards for the remittance and collection of premiums and  
6 monthly care fees.

7 § 21. The opening paragraph of subdivision 14 and subdivision 15 of  
8 section 4657 of the public health law, as added by chapter 519 of the  
9 laws of 2004, are amended to read as follows:

10 In accordance with regulations promulgated by the [~~council~~] commis-  
11 sioner, the operator shall prepare a standard information sheet for each  
12 approved fee-for-service continuing care retirement community, which  
13 must be approved by the department, distributed with the community's  
14 marketing materials and attached to the initial disclosure statement  
15 prepared in accordance with this section. The standard information sheet  
16 shall be prepared in plain language and in twelve point type and shall  
17 include, but shall not be limited to the following information:

18 15. Any other information as may be required by regulations promulgat-  
19 ed by the [~~council~~] commissioner.

20 § 22. The opening paragraph and paragraph d of subdivision 2 of  
21 section 4658 of the public health law, as added by chapter 519 of the  
22 laws of 2004, are amended to read as follows:

23 The annual statement shall be in such form as the [~~council~~] commis-  
24 sioner prescribes and shall contain at least the following:

25 d. Such other reasonable financial and other information as the [~~coun-~~  
26 ~~eil~~] commissioner may require with respect to the operator or the commu-  
27 nity, or its directors, controlling persons, trustees, members, branch-  
28 es, subsidiaries or affiliates to determine the financial status of the  
29 community and the management capabilities of the operator.

30 § 23. Subdivision 2 of section 4651 of the public health law, as added  
31 by chapter 519 of the laws of 2004, is amended to read as follows:

32 2. "Certificates" or "certificate of authority" shall mean an authori-  
33 zation in writing, approved [~~by the council~~] and issued by the commis-  
34 sioner, for an operator to operate a fee-for-service continuing care  
35 retirement community and to enter into fee-for-service continuing care  
36 contracts pertaining to such community.

37 § 24. Section 4654 of the public health law, as amended by chapter 545  
38 of the laws of 2004, is amended to read as follows:

39 § 4654. Authorization of fee-for-service continuing care retirement  
40 communities. The commissioner [~~, upon approval of the continuing care~~  
41 ~~retirement community council,~~] shall approve up to eight fee-for-service  
42 continuing care retirement communities to encourage affordable care  
43 options for middle income seniors, up to two of which may be operated by  
44 a for-profit entity.

45 § 25. The opening paragraph of section 4659 of the public health law,  
46 as added by chapter 519 of the laws of 2004, is amended to read as  
47 follows:

48 A fee-for-service continuing care contract shall contain all of the  
49 following information in no less than twelve point type and in plain  
50 language, in addition to any other terms or matter as may be required by  
51 regulations [~~adopted by the council and~~] issued by the commissioner:

52 § 26. The opening paragraph of subdivision 5 of section 4655 of the  
53 public health law, as amended by chapter 545 of the laws of 2004, is  
54 amended to read as follows:

55 If the [~~approvals~~] applicant has satisfied the criteria required by  
56 subdivision four-a of this section have been obtained, the [~~council~~]

1 commissioner shall[~~, by majority vote,~~] either approve or reject the  
2 application [~~within sixty days of the date on which the last such~~  
3 ~~approval has been obtained~~]. In order to approve the application, the  
4 [~~council~~] commissioner shall have determined that:

5 § 27. Subdivisions 6 and 8 of section 4655 of the public health law,  
6 as added by chapter 519 of the laws of 2004, are amended to read as  
7 follows:

8 6. Any change in the legal entity operating the fee-for-service  
9 continuing care retirement community, or in a controlling person of the  
10 community shall require approval in the same manner as an original  
11 application; provided, however, that the [~~council~~] commissioner may  
12 waive any requirement to provide information that is not relevant to  
13 such change and provided, further, that the continued public need for  
14 the community shall be presumed.

15 8. [~~If the council approves the application, the~~] The commissioner  
16 shall issue a certificate of authority to the applicant upon approval of  
17 the application.

18 § 28. Section 4611 of the public health law, as added by chapter 689  
19 of the laws of 1989, the opening paragraph of subdivision 1 as further  
20 amended by section 104 of part A of chapter 62 of the laws of 2011, is  
21 amended to read as follows:

22 § 4611. Reserves and supporting assets. 1. An operator shall maintain  
23 reserve liabilities and supporting assets in an amount and for the  
24 purposes set forth in a regulation issued by the [~~superintendent of~~  
25 ~~financial services~~] commissioner. Liquid assets must be maintained for  
26 the following reserve liabilities:

27 a. Principal and interest payments and payments for taxes and insur-  
28 ance for up to twelve months;

29 b. Total estimated operating costs for up to six months as set by the  
30 [~~superintendent~~] commissioner;

31 c. Repairs and replacements for up to twelve months; and

32 d. In addition, the amount of liquid assets must meet any cash flow  
33 requirements and conditions as set forth in a regulation.

34 2. The assets in support of reserve liabilities of subdivision one of  
35 this section shall meet quantitative and qualitative standards set forth  
36 in regulations issued by the [~~superintendent~~] commissioner.

37 § 29. Section 1119 of the insurance law, as amended by chapter 659 of  
38 the laws of 1997, is amended to read as follows:

39 § 1119. Limited exemption for continuing care retirement communities.  
40 [~~(a)~~] An organization complying with the provisions of article forty-six  
41 of the public health law may operate without being licensed under this  
42 chapter and without being subject to any provisions of this chapter,  
43 except to the extent that such organization must comply with the  
44 provisions of this chapter by virtue of such article[~~, and such organ-  
45 ization must comply with rules and regulations of the superintendent  
46 relating to:~~

47 ~~(1) financial feasibility of the continuing care retirement community,~~  
48 ~~(2) actuarial principles established relating to such communities,~~  
49 ~~(3) approval of continuing care retirement contracts and the rates and  
50 rating system, if any, for such contracts.~~

51 ~~(b) The superintendent may promulgate regulations in effectuating the  
52 purposes and the provisions of this chapter and article forty six of the  
53 public health law, which may include requirements applicable to the  
54 contracts between a continuing care retirement community and its resi-  
55 dents.~~

1 ~~(c) Such organization shall be subject to the provisions of article~~  
2 ~~seventy four of this chapter. Prior to commencing action under article~~  
3 ~~seventy four, the superintendent shall consult with the continuing care~~  
4 ~~retirement community council established pursuant to section forty-six~~  
5 ~~hundred two of the public health law].~~

6 § 30. Subdivision 1 of section 4621 of the public health law, as  
7 amended by chapter 659 of the laws of 1997, is amended to read as  
8 follows:

9 1. No person, partnership, corporation or other entity shall solicit,  
10 collect or receive any priority reservation fee or enter into any agree-  
11 ment relating to the payment of any priority reservation fee with  
12 respect to any continuing care retirement community to be operated with-  
13 in the state without first obtaining the written authorization of the  
14 commissioner. The commissioner shall not grant such authorization to an  
15 entity that has not yet obtained a certificate of authority unless the  
16 requirements of this section and any applicable regulations are met.  
17 Upon obtaining the authorization of the commissioner under this section,  
18 a prospective continuing care retirement community applicant or an enti-  
19 ty that has filed an application for a certificate of authority may  
20 enter into cancelable priority reservation agreements with prospective  
21 residents and solicit, collect and receive refundable priority reserva-  
22 tion fees for direct deposit into an escrow account, prior to obtaining  
23 a certificate of authority, for the purpose of evaluating market demand  
24 for a proposed continuing care retirement community and for the purpose  
25 of guaranteeing to prospective residents an opportunity for priority  
26 placement in a continuing care retirement community. A priority reserva-  
27 tion fee shall not exceed two thousand dollars unless the commissioner,  
28 in the discretion of such commissioner, establishes that a priority  
29 reservation fee may exceed two thousand dollars. A non-refundable prior-  
30 ity reservation agreement application fee shall not exceed the maximum  
31 amount [~~for such fee as set forth in regulations adopted by the council~~]  
32 established by the commissioner, in such commissioner's discretion.

33 § 31. Subdivision 1 of section 4622 of the public health law, as  
34 amended by chapter 659 of the laws of 1997, is amended to read as  
35 follows:

36 1. No person, partnership, corporation or other entity shall solicit,  
37 collect or receive any priority reservation fee or enter into any agree-  
38 ment relating to the payment of any priority reservation fee with  
39 respect to any continuing care retirement community operated or to be  
40 operated within the state without first obtaining the written authori-  
41 zation of the commissioner. The commissioner shall not grant such  
42 authorization to an entity that has obtained a certificate of authority  
43 unless the requirements of this section and any applicable regulations  
44 are met. Upon obtaining the authorization of the commissioner under this  
45 section, an operator may enter into cancelable priority reservation  
46 agreements with prospective residents and solicit, collect and receive  
47 refundable priority reservation fees for direct deposit into an escrow  
48 account for the purpose of guaranteeing to prospective residents an  
49 opportunity for priority placement in the continuing care retirement  
50 community for which the operator has obtained a certificate of authori-  
51 ty. A priority reservation fee shall not exceed two thousand dollars  
52 unless the commissioner, in the discretion of such commissioner, estab-  
53 lishes that a priority reservation fee may exceed two thousand dollars.  
54 A non-refundable priority reservation agreement application fee shall  
55 not exceed the maximum amount [~~for such fee as set forth in regulations~~

1 ~~adopted by the council]~~ established by the commissioner, in such commis-  
2 sioner's discretion.

3 § 32. Subdivision 1 of section 4674 of the public health law, as added  
4 by chapter 519 of the laws of 2004, is amended to read as follows:

5 1. No person, partnership, corporation or other entity shall solicit,  
6 collect or receive any priority reservation fee or enter into any agree-  
7 ment relating to the payment of any priority reservation fee with  
8 respect to any fee-for-service continuing care retirement community to  
9 be operated within the state without first obtaining the written author-  
10 ization of the commissioner. The commissioner shall not grant such  
11 authorization to an entity that has not yet obtained a certificate of  
12 authority unless the requirements of this section and any applicable  
13 regulations are met. Upon obtaining the authorization of the commis-  
14 sioner under this section, a prospective community applicant or an entity  
15 having filed an application for a certificate of authority may enter  
16 into cancelable priority reservation agreements with prospective resi-  
17 dents and solicit, collect and receive refundable priority reservation  
18 fees for direct deposit into an escrow account, prior to obtaining a  
19 certificate of authority, for the purpose of evaluating market demand  
20 for a proposed fee-for-service continuing care retirement community and  
21 for the purpose of guaranteeing to prospective residents an opportunity  
22 for priority placement in a fee-for-service continuing care retirement  
23 community. A priority reservation fee shall not exceed two thousand  
24 dollars unless the commissioner, in the discretion of such commissioner,  
25 establishes that a priority reservation fee may exceed two thousand  
26 dollars. A non-refundable priority reservation agreement application  
27 fee shall not exceed the maximum amount [~~for such fee as set forth in~~  
28 ~~regulations adopted by the council]~~ established by the commissioner, in  
29 such commissioner's discretion.

30 § 33. Subdivision 1 of section 4675 of the public health law, as added  
31 by chapter 519 of the laws of 2004, is amended to read as follows:

32 1. No person, partnership, corporation or other entity shall solicit,  
33 collect or receive any priority reservation fee or enter into any agree-  
34 ment relating to the payment of any priority reservation fee with  
35 respect to any fee-for-service continuing care retirement community  
36 operated or to be operated within the state without first obtaining the  
37 written authorization of the commissioner. The commissioner shall not  
38 grant such authorization to an entity that has obtained a certificate of  
39 authority unless the requirements of this section and any applicable  
40 regulations are met. Upon obtaining the authorization of the commis-  
41 sioner under this section, an operator may enter into cancelable priority  
42 reservation agreements with prospective residents and solicit, collect  
43 and receive refundable priority reservation fees for direct deposit into  
44 an escrow account for the purpose of guaranteeing to prospective resi-  
45 dents an opportunity for priority placement in the fee-for-service  
46 continuing care retirement community for which the operator has obtained  
47 a certificate of authority. A priority reservation fee shall not exceed  
48 two thousand dollars unless the commissioner, in the discretion of such  
49 commissioner, establishes that a priority reservation fee may exceed two  
50 thousand dollars. A non-refundable priority reservation agreement  
51 application fee shall not exceed the maximum amount [~~for such fee as set~~  
52 ~~forth in regulations adopted by the council]~~ established by the commis-  
53 sioner, in such commissioner's discretion.

54 § 34. No later than December 1, 2024, the commissioner of health, in  
55 conjunction with the superintendent of financial services, shall evalu-  
56 ate and make recommendations regarding the additional resources required

1 by the department of health to implement this act to the governor, the  
2 division of the budget, the senate finance committee and the assembly  
3 ways and means committee.

4 § 35. Notwithstanding section 163 of the state finance law, the  
5 commissioner of health may enter into new contracts, or in the  
6 discretion of such commissioner, institute a contract addendum to an  
7 existing contract to secure actuarial and other services, necessary to  
8 implement this act.

9 § 36. This act shall take effect immediately; provided, however, that  
10 sections three, nine, eleven, twelve, thirteen, twenty-eight and twen-  
11 ty-nine of this act shall take effect June 1, 2026. Effective imme-  
12 diately, the addition, amendment and/or repeal of any rule or regu-  
13 lation necessary for the implementation of this act on its effective  
14 date are authorized to be made and completed on or before such effective  
15 date.